



To: Members, School Funding Interim Commission  
From: Lance L. Melton, Executive Director, MTSBA  
Re: MTSBA's suggested areas of focus for the Commission  
Date: September 22, 2015

The Montana School Boards Association appreciates your service in carrying out the charge of Senate Bill 128 of reassessing "the educational needs and costs related to the basic system of free quality public elementary and secondary schools." MTSBA stands ready to assist the Commission in its efforts and looks forward to working with Commission members in ensuring the ongoing constitutionality of the State's methods for funding Montana's Public Schools.

In assessing educational needs and costs, we respectfully urge the Commission to use global touchstones found in Article X to guide its analyses. First and foremost, Montana's system of public schools is intended to provide individualized excellence to each child. As provided in the first sentence of Article X of the Montana Constitution:

*"It is the goal of the people to establish a system of education which will develop the full educational potential of each person."*

Equally important to this goal of individualized excellence is the guarantee of equality of educational opportunity afforded each person of the state pursuant to Article X, Section 1. These first two sentences of Article X set the stage for everything that follows throughout the remaining sections of Article X, and the state's definition of quality in 20-9-309, MCA.

The State's primary responsibilities under the language of Article X and the Court's rulings is to "provide a basic system of free quality public elementary and secondary schools." The Court in *Columbia Falls Elementary v. State* further explained the meaning of this language by requiring that the Legislature:

1. Define the basic system of free quality schools, which it has accomplished through the language of section 20-9-309, MCA;
2. Determine the costs of providing an education complying with the State's definition, which the State has been found to have satisfied through its Quality Schools Interim Committee in 2005; and
3. Fund in accordance with the costs determined, which the State has been found to have satisfied through the subsequent changes to the formula implemented in the December 2005 and regular 2007 Legislative Sessions.

The latest judicial analysis of the Legislature's progress in restoring constitutionality of its efforts under Article X came in late 2008 with the issuance of Judge Sherlock's district court opinion assessing the State's progress since his earlier opinion finding the state in violation of Article X.

The opinion is particularly important on two fronts. The first is that Judge Sherlock found the funding system as it existed in December 2008 to be constitutionally adequate and equitable. The second important element of Judge Sherlock's ruling is that he provided guidance to the Legislature regarding remaining areas of concern that he suggested could cause him to reverse his conclusion in the future. The areas of concern cited in Judge Sherlock's opinion are:



1. The percentage increase in funding for schools from year to year. Judge Sherlock found that the 1.9% increase scheduled for 2009 was of concern and suggested "to avoid future problems, this figure should reflect to the trend of 2005-2008."
2. The state's share of funding. Judge Sherlock suggested that the state's share over time "should not be declining, but should either be increasing or at least staying the same."
3. The costs of special education with Judge Sherlock specifically citing that "State appropriations for special education have fallen far short of the growth in costs" and that the "increased competition for general fund dollars between special and general education continues."
4. Recruitment and retention of teachers in isolated districts.

Assessing the system in the context of these four findings from Judge Sherlock's December 2008 opinion, along with development of a replacement funding mechanism for the recently dissolved school facilities grant program, provides the Commission with a clear roadmap of what it needs to do to ensure continued constitutionality of the funding formula. Making changes outside of these areas of concern is not only ill-advised, but may actually threaten the existing constitutionality of the system as it exists today through the definition of the basic system of free quality schools in 20-9-309 and the State's funding formula.

The State has made significant recent progress toward addressing Judge Sherlock's findings 119-122 through the passage of Senate Bills 175 and 191 in the 2013 Legislature. Specific enhancements to the formula that address Judge Sherlock's findings included:

1. Application of inflation to nearly all general fund entitlements as incorporated in Senate Bill 175. The only remaining general fund formula element not subject to inflation adjustments is special education funding, which could be easily incorporated at a biennial cost of less than \$3.5 million (assuming annual inflation at 3%).
2. The creation of the Natural Resource Development Payment in Senate Bill 175, which requires, in essence, that local property taxes for the general fund BASE remain flat until the state's share of general fund support increases by approximately \$50 million per year. This new formula element has bolstered the State's share of school district general funds to 64%, the highest levels since issuance of Judge Sherlock's ruling in December 2008.
3. The authority of school districts to use their tuition levies on a nonvoted basis to cover the costs of special education that are beyond the amounts provided in state and federal funding under Senate Bill 191. With this authority, school district now have a pressure relief valve that they can use to effectively end the "competition for general fund dollars between special and general education" cited in Finding 121 of Judge Sherlock's ruling.

Based on all of the above, MTSBA's recommendation is that the School Funding Interim Commission focus its analysis and efforts during this interim on the following three items:

1. Development of a replacement funding mechanism to address school facilities in an adequate and equitable manner;
2. Addressing and resolving the significant ongoing problems in recruitment and retention of teachers throughout Montana, emphasizing solutions where those problems are most significant in Montana's class B and C school districts; and
3. Incorporating inflation for state special education funding into the funding formula.

Thank you again for your service on the School Funding Interim Commission. We look forward to working together on solutions.





September 22, 2015

School Funding Interim Commission 2015-16  
PO Box 201706  
Helena, Montana 59620-1706

Re: **Public Comment for Commission Work Sessions**

To Whom It May Concern:

Thank you for the opportunity to provide you with comments regarding the work of the Interim Commission regarding the important issue of school funding. I work with K-12 schools in large and small communities across Montana and across the United States on comprehensive planning processes to address long-term needs of schools and communities.

During the preliminary planning efforts I often utilize the State of Montana Facility Condition Inventory from 2008 in order to understand basic technology needs and the condition of school facilities. The resources allocated to the 2008 report required a rapid assessment of school facility conditions in a short time period.

In 2009 CTA conducted detailed facility assessments and detailed energy audits for more than twenty large and small school districts. Based upon those studies, it appears that the State of Montana report underestimated the deficiencies in facilities by about 20% and underestimated the replacement cost by about 30%. In one comparison, the State of Montana report identified that 28 of 34 facilities were in Good condition with only 6 of 34 facilities being in Fair condition, whereas the more detailed report from 2009 identified 7 in Good condition, 14 in Fair condition and 13 in Poor condition. 3 of those 13 facilities were approaching need for replacement.

The replacement costs in the 2008 report included a variable based upon the construction type associated with schools built in 1900, the 1920's, 1950's, 1960's, etc. It seems unlikely that contemporary schools would replicate those types of construction, and that the replacement cost assumptions could be simplified to current construction techniques.

A significant variable in construction cost in Montana can be found in size and location of school facilities, with costs generally being higher in smaller facilities and more remote locations than in larger facilities in our larger communities. Maintaining variable for facility size and regional conditions would be helpful.

The 2008 report provides a useful benchmark of gross square footage of school facilities across the state but does not identify districts that fall well below or well above regional averages for facilities in relation to the number of students served. That analysis could help communities prioritize investments in facilities and would likely reduce the deferred maintenance associated with excess facilities that might be sold to public or private organizations.

We are now approaching 8 years since the report was developed. When considering escalation in deferred maintenance and replacement costs, the total needs of schools across Montana are

likely to have risen at least 25%. Of course some communities have made significant investments in school facilities in the past 8 years, while others have struggled to pass a bond of building reserve.

If the Interim Commission were to consider updating the 2008 report, I recommend the following.

1. Update the costs associated with the deferred maintenance items by 20% rather than sending assessment teams back to each school to confirm each item.
2. Account for inflation in the construction industry over the past 8 years.
3. Modify the replacement cost assumptions to reflect current construction costs, with variables for school size and location.
4. Calculate the gross square footage per student in order to identify districts that fall well below or well above regional averages for facilities in order to conduct a follow-up assessment.

Thank you for your service to the people of Montana and for your commitment to addressing the challenge of school funding.

Sincerely,

CTA ARCHITECTS ENGINEERS



Nick Salmon  
Recognized Educational Facility Planner

cc: File